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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,079	12/20/2001	Andrew Hudz	61847-013 (SNML-111)	9866

7590

12/18/2002

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EXAMINER

TRAN, KHOA H

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,079

Applicant(s)

HUDZ ET AL.

Examiner

Khoan Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

Drawings

The drawings are objected to because the top margin is not 1 inch spaced from the top of the paper, as the result, a portion of the cross member and the references thereof has been cut off. Further, the drawings are objected to because they fail to show reference numerals "52" and "56" as described in on page 5, line 1. Correction is required.

Applicant is required to submit a proposed drawing correction in reply to this Office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-9, 11, 14-21, 24-27, 29, and 32, are rejected under 35 U.S.C. 102(b) as being anticipated by Rinderer. Rinderer discloses a rack for electrical equipment comprising:

a base (22) having a bottom plate (24), two attaching opposite gussets (70), an end wall (26), a top wall (96 and 92), an access aperture on a side brace (82) for receiving wires therethrough and a plurality of mounting apertures (28), see Figures 1 and 6;

a pair of upright members (30) secured to opposite sides of the base, each upright member has a web portion (34), a first flange (42), a second flange (36), a lip (40) that attached to the second flange and a tapering lower end on the second flange of the upright member that tapers toward the web portion of the upright member;

a cross-member (32) connected between the upper ends of the upright members;

a separate flange reinforcing plate (44) secured by welding to the respective interior surface of the flange of the upright members and extended vertically from the lower ends of the upright members; and

at least one brace member (62) secured to the cross-member and extended through the web to secure to one of the flange of the respective upright members.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 11-27, 29-37, 40-45, 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rinderer in view of Walter et al. ('756). Rinderer discloses a rack for electrical equipment comprising a base (22) having a bottom plate (24), two attaching opposite gussets (70), an end wall (26), a top wall (96 and 92), an access aperture on a side brace (82) for receiving wires therethrough and a plurality of

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mounting apertures (28), see Figures 1 and 6; a pair of upright members (30) secured to opposite sides of the base, each upright member has a web portion (34), a first flange (42), a second flange (36), a lip (40) that attached to the second flange and a tapering lower end on the second flange of the upright member that tapers toward the web portion of the upright member; a cross-member (32) connected between the upper ends of the upright members; a separate flange reinforcing plate (44) secured by welding to the respective interior surface of the flange of the upright members and extended vertically from the lower ends of the upright members; and at least one brace member (62) secured to the cross-member and extended through the web to secure to one of the flange of the respective upright members. Walter et al. ('756) teach the upright member (12A, 12B) that is flare out (12A', 12B') at the bottom end and the base having an insert (20A") positions against the upright member and the bottom plate and at least one side channel piece (20A') extends at an angle. See Figures 4 and 6C. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the upright member of Rinderer with the flare out upright member and provide the base with inserts and side channel pieces as taught by Walter et al. ('756) in order to reinforce the structural strength of the rack and to protect the rack from forces that encounter during a seismic event. With respect to claims 3, 33 and 42, it would have been an obvious matter of engineering design choice as determined through routine experimentation and optimization for one of ordinary skill in the art to routinely dimension the reinforce plate to be approximately one-fifth the height of the

upright member for a particular application thus producing no new and unexpected results.

Claims 10, 28, 38, 39 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rinderer in view of Walter et al. ('756) as applied to claims 1-9, 11-27, 29-37, 40-45, 47 and 48 above, and further in view of Jordan. Jordan teaches the top plate (17) having an access opening (171). See Figures 3 and 4a. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the top plate of Rinderer with access openings as taught by Jordan in order to have access to below to secure the base and to improve the rigidity of the rack when the rack is subjected to an earthquake vibration.

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Serban, Walter et al. ('413), Mendoza ('633), ('917), and ('214), Masuda et al., Salmon, Zachrai, and Chong are cited to show devices having similar configurations of design.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 8:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicant is hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the
Patent and Trademark Office

Fax No. _____ On _____

(Date)

Type or printed name of person signing this certificate:

(Signature)

Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Khoa Tran
November 26, 2002

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large, looping initial "D".

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600